

**ENTERED**

October 05, 2021

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
CORPUS CHRISTI DIVISION

JODY STEVEN BYRUM,

Plaintiff,

VS.

NUECES COUNTY SUBSTANCE  
ABUSE TREATMENT FACILITY, *et al*,

Defendants.

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CIVIL ACTION NO. 2:21-CV-124

**ORDER ADOPTING MEMORANDUM & RECOMMENDATION**

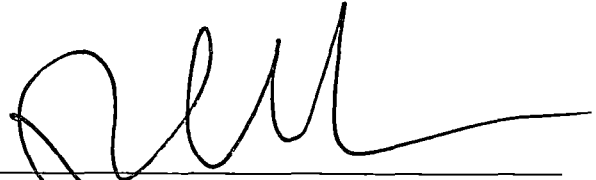
Before the Court is Magistrate Judge Julie Hampton's Memorandum and Recommendation (M&R). (D.E. 15). The parties were provided proper notice of, and the opportunity to object to, the Magistrate Judge's M&R. *See* 28 U.S.C. § 636(b)(1); FED. R. CIV. P. 72(b); General Order No. 2002-13. No timely objection has been filed. *See* (D.E. 18). When no timely objection has been filed, the district court need only determine whether the Magistrate Judge's M&R is clearly erroneous or contrary to law. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989) (per curiam); *Powell v. Litton Loan Servicing, LP*, No. CIV. A. H-14-2700, 2015 WL 3823141, at \*1 (S.D. Tex. June 18, 2015).

Having carefully reviewed the proposed findings and conclusions of the Magistrate Judge, the filings of the parties, the record, and the applicable law, and finding that the M&R is not clearly erroneous or contrary to law, the Court **ADOPTS** the M&R in its entirety. (D.E. 15).

Accordingly:

- (1) Pursuant to 28 U.S.C. §§ 1915(e)(2)(B) and 1915A(b)(1), Plaintiff's § 1983 claims against Defendant Stan Turpin related to his probation revocation is **DISMISSED with prejudice** as frivolous until such time as Plaintiff satisfies the conditions set forth in *Heck v. Humphrey*, 512 U.S. 477, 489–87 (1994).
- (2) To the extent Plaintiff complains about the legality of his probation revocation, such claims are **DISMISSED without prejudice** to them being reasserted in a federal habeas corpus petition after exhausting available state remedies.
- (3) Pursuant to 28 U.S.C. §§ 1915(e)(2)(B) and 1915A(b)(1), Plaintiff's remaining § 1983 claims against the SATF Defendants are **DISMISSED with prejudice** as frivolous and for failure to state a claim for relief.
- (4) This dismissal counts as a “strike” for purposes of 28 U.S.C. § 1915(g).
- (5) The Clerk of Court is **INSTRUCTED** to send notice of this dismissal to the Manager of the Three Strikes List for the Southern District of Texas at [Three\\_Strikes@txs.uscourts.gov](mailto:Three_Strikes@txs.uscourts.gov).

SO ORDERED.



DAVID S. MORALES  
UNITED STATES DISTRICT JUDGE

Dated: Corpus Christi, Texas  
October 5<sup>th</sup>, 2021